

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DE ANGELO THOMAS-EL,)	
)	
Petitioner,)	
)	
v.)	No. 4:16-CV-65-NCC
)	
JAY CASSADY,)	
)	
Respondent.)	

MEMORANDUM AND ORDER OF TRANSFER

This matter is before the court on petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 [Doc. #1].

Petitioner states that on January 11, 2002, a jury in the Circuit Court of the City of St. Louis, Missouri, found him guilty of first degree robbery and armed criminal action. He was sentenced to concurrent terms of twenty-five years imprisonment. The Missouri Court of Appeals affirmed the convictions and sentences. Petitioner's motion for post-conviction relief was denied on October 15, 2003.

The court's records show that petitioner previously brought a motion for relief under 28 U.S.C. § 2254, which this court denied on the merits on July 23, 2007. *See Thomas v. Dwyer*, No. 4:04-CV-746-DJS (E.D.Mo). On appeal, the United States Court of Appeals for the Eighth Circuit denied petitioner a certificate of

appealability and dismissed the case; the mandate issued on November 29, 2007.

Title 28 U.S.C. § 2244(b)(3)(A) provides that "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." There is no indication that the Court of Appeals has certified the instant habeas application as required by § 2244(b)(3)(A). As such, this Court lacks authority to grant petitioner the relief he seeks. Rather than dismiss this action, the Court will transfer the petition to the Eighth Circuit Court of Appeals pursuant to 28 U.S.C. § 1631. *See In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997); *Coleman v. United States*, 106 F.3d 339 (10th Cir. 1997); *Liriano v. United States*, 95 F.3d 119, 122-23 (2d Cir. 1996).

Therefore,

IT IS HEREBY ORDERED that no order to show cause shall issue as to respondent, because the instant petition is successive under 28 U.S.C. § 2244(b)(3)(A).

IT IS FURTHER ORDERED that petitioner's application for a writ of habeas corpus is **DENIED**, without prejudice.

IT IS FURTHER ORDERED that the Clerk shall **TRANSFER** the instant petition to the United States Court of Appeals for the Eighth Circuit pursuant to 28 U.S.C. § 1631.

Dated this 22nd day of January, 2016

\s/ **Jean C. Hamilton**
UNITED STATES DISTRICT JUDGE